

██████████,  
Complainant,

v.

**PREFERRED TOWING & RECOVERY, INC.,**  
Respondent.

### **NOTICE OF FINDING**

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred. 910 IAC 1-3-2(b)

On April 18, 2011, ██████████ ("Complainant") filed a complaint with the Commission against Preferred Towing & Recovery, Inc. ("Respondent") alleging sexual harassment in violation of ██████████  
██████████ the Indiana Civil Rights Law (IC 22-9, et seq.) Complainant is an employee and Respondent is an employer as defined by the Civil Rights Laws. IC 22-9-1-3(h) and (i) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was subjected to unlawful sexual harassment. In order to prevail, Complainant must show that: (1) she experienced unwelcome comments or actions of a sexual nature; (2) the comments were severe or pervasive; (3) she made it known that the comments were unwelcome; (4) Respondent failed to take corrective action to address the hostile work environment and (5) the environment was so hostile as to lead a reasonable person to resign his or her employment.

There is no dispute about the fact that sexual images were exchanged among employees via cell phones during work hours. Some of these images could be viewed as severe, and they apparently occurred with some frequency. While Complainant

claims that she expressed her disapproval of such images, this could not be substantiated. Witness testimony suggests that Complainant actually requested that such images be forwarded to her. It is clear that Respondent did not take action to stop such images from being exchanged during work hours. A reasonable person could find such images to be so severe or pervasive as to lead one to reason his or her employment. There is probable cause to believe that a violation of the Indiana Civil Rights Law has been violated, as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Indiana Civil Rights Commission will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

August 8, 2011

Date

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Joshua S. Brewster, Esq.,  
Deputy Director  
Indiana Civil Rights Commission

**Service list for**  
**Notice of Finding**

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